COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Gerard Seeley, Jr.
Regional Director

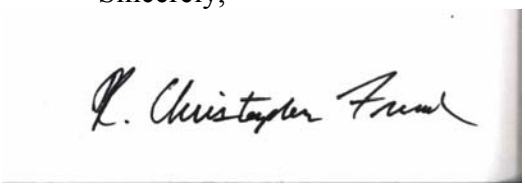
April 19, 2004

Mr. Craig Byrant
Chesterfield County Utilities Department
PO Box 608
Chesterfield, VA 23832-9998

Mr. Byrant:

Thank you very much for your written comment on the Lower Appomattox River TMDL. The Department of Environmental Quality (DEQ) and the USEPA recognize that 100 percent elimination of sanitary sewage overflows (SSOs) and straight pipes is a goal toward which bacterial TMDL implementation should strive. The DEQ and USEPA understand that acts of God, vandalism, excavation damage and other unforeseen situations will occur to cause SSOs. However, elimination of straight pipes is a feasible goal. The stated goal of 100 percent elimination of SSOs simply means that all feasible actions should be taken to eliminate SSOs in a bacterially impaired watershed.

Sincerely,



R. Christopher French
TMDL Coordinator
Piedmont Regional Office, DEQ

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Ms. Patricia A. Jackson
President and CEO
James River Association
P.O. Box 909
Mechanicsville, VA 23111

RE: Written Comments on the Appomattox River Basin TMDL

Dear Ms. Jackson:

Thank you very much for your written comments on the Appomattox River Basin TMDL on behalf of the James River Association. Responses to your comments are italicized below each comment.

1. Developing the TMDL using a watershed approach was a good methodology for this basin. Assessing all impaired feeder streams at the same time as the main stem Appomattox gives a more accurate picture of the overall bacteria problem and the steps needed to correct it. This approach should be used as appropriate and practical in other similar watersheds.

Response: Thank you. DEQ anticipates using this approach in future basin-wide TMDLs.

2. For the most part, the public participation process for the development of this TMDL was well done. The meetings were all held in accessible locations at times convenient for the public. The presentations were concise and informative. Subject matter experts were available to answer any questions and provide additional information. However, providing the draft plan electronically was problematic, since it is a lengthy document. Printed copies should have been available, especially for those stakeholders who participated in the process.

Response: The draft TMDL plan was lengthy. DEQ recognized this, but due to resource limitations decided to provide the report in .pdf format electronically. We will consider providing printed copies of future large basin-wide TMDL draft reports to stakeholders after stakeholder meetings by mail to minimize the waste of creating extra copies. To better accommodate the public, we are separating the body and the appendix on the DEQ TMDL web site in order to facilitate easier access to the materials.

3. In Section 5.2, Incorporation of a Margin of Safety, we would prefer to see an explicit margin of safety used rather than the implicit one outlined. The "conservative estimates of model parameters" used to design the margin of safety are not explained, and it is unclear what the margin of safety exactly is. It would be much clearer if an explicit margin of safety directly linked to the amount of uncertainty in the plan were used.

Response: The consultant included a thorough explanation of the implicit MOS conservative estimates of model parameters in the final document for the USEPA based on your comment. DEQ and the consultant decided that a further explicit margin of safety of 5 percent was unnecessary because not only the estimates of model parameters but also the method of the BST data analysis were conservative.

4. In Section 6, Implementation, a phased approach to reaching water quality standards is discussed. As outlined, phase 1 of the plan would implement 60% reductions in all anthropogenic sources of bacteria using best management practices that offer the highest levels of reduction. After phase one implementation, assessments would be made and other steps taken, if needed. We do not agree with this approach. The total package, with all steps needed to achieve the water quality standard, should be explicitly laid out in the TMDL Plan. This will allow all stakeholders to understand the true cost of the program and the severity of the steps that have to be taken to achieve the water quality standard.

Response: Because of the inherent uncertainties in the TMDL model, it is not possible to know explicitly all steps that will be needed to achieve the water quality standard in the preliminary TMDL development phase. Nor is it possible during the TMDL development phase to know the severity of the steps or the costs necessary to achieve the water quality standards. The TMDL development phase, which will be complete with acceptance of the TMDL development report by USEPA and adoption by the SWCB, estimates the sources of contamination, and the reductions in bacterial loads possibly needed to reach the water quality standard. The next phase, the Implementation Plan phase, will describe the proposed methods of load reduction in the watershed, including the Best Management Practices (BMPs) proposed. Stakeholders will have direct input into creating the Implementation plan, and it too will go through public comment. Next, the actual implementation phase is done in steps first involving those BMPs anticipated to achieve the greatest reductions in loads at the least cost, so that costs and severity of load reductions are minimized to the greatest extent possible for the localities who bear the costs. During and after the first steps of BMP implementation, DEQ will monitor bacteria levels in the watershed to gauge the extent to which the water quality standard has been achieved. The DEQ and stakeholders will assess the need for further reductions at that time.

5. In Section 6.4.5, Addressing Wildlife Contributions, the draft plan states that many of the impaired segments in the watershed cannot achieve the primary contact recreation designation use without reducing the loads from wildlife. It further states that if this is the case, a Use Attainability Analysis may be performed to change the designation to secondary contact recreation. We believe that any move away from the primary contact recreation designation is a step in the wrong direction. Bacterially impaired waters are still impaired regardless of the source—wildlife or anthropogenic. We firmly believe that anyone fishing, boating, wading or swimming in our waters should not have to worry about accidentally ingesting the water. All possible steps must be taken to preserve primary contact recreation as the standard towards which we strive.

Response: Designation to secondary contact recreation use is a new concept, the details of which are still to be developed in Virginia. Keep in mind that there are uncertainties in TMDL development in the Appomattox River basin as in any TMDL. The TMDL implementation phase may achieve water quality standards in watersheds where this was not predicted by the models. Regardless, the USEPA requires the DEQ and stakeholders to implement all feasible methods of bacterial load reduction prior to entertaining

this designation. After that, any proposed secondary contact recreation use designation would undergo full stakeholder and public participation and scrutiny.

Please let me know if you have any questions regarding the information provided. I would be happy to make myself available to further discuss the Appomattox River Basin TMDL

Sincerely,

R. Christopher French
TMDL Coordinator
Piedmont Regional Office, DEQ